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ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Report of the Secretary-General

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I. INTRODUCTION

1. The present document is submitted in accordance with paragraph 9 of Commission on Human Rights resolution 2001/30, in which the Commission requested the Secretary-General to submit a report on its implementation to the Commission at its fifty-eighth session.

2. In its resolution 2001/30, the Commission decided, inter alia, to encourage the High Commissioner for Human Rights to continue to ensure better support for the Committee on Economic, Social and Cultural Rights, in particular under the Programme of Action to strengthen the implementation of the International Covenant on Economic, Social and Cultural Rights; to support the efforts of the High Commissioner to enhance the ability of the Committee to assist Governments in their reporting obligations; and to encourage the Committee to continue its efforts towards the promotion, protection and full realization of the rights enshrined in the Covenant at the national and international levels, notably by enhancing its cooperation with United Nations specialized agencies, programmes and other bodies working on issues that bear upon the Covenant and through the drafting of further general comments. The Commission further decided to appoint an independent expert to examine the question of a draft optional protocol to the International Covenant on Economic, Social and Cultural Rights, who would report to the Commission at its fifty-eighth session with a view to its consideration of possible follow-up and future actions, including the establishment of an open-ended working group to further examine the issue; to encourage the High Commissioner for Human Rights to strengthen the research and analytical capacities of her Office in the field of economic, social and cultural rights and to share her expertise; and to encourage her to continue to provide or to facilitate practical support aimed at building capacities for the full realization of economic, social and cultural rights.

3. Information contained in the present report is drawn from the work of treaty bodies, especially the Committee on Economic, Social and Cultural Rights, the special procedures established by the Commission on Human Rights relevant to economic, social and cultural rights, and the work of the United Nations Development Programme (UNDP) and other organizations.

II. COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

4. As at 3 September 2001, the International Covenant on Economic, Social and Cultural Rights had been ratified or acceded to by 145 States. The Covenant entered into force on 3 January 1976, in accordance with the provisions of its article 27. A list of States parties, as well as information on the status of the submission of reports by States parties, can be found in document E/C.12/2001/14 of 24 September 2001. Information on the status of the Covenant and reservations, withdrawals, declarations and objections under the Covenant can be found in document E/C.12/1993/3/Rev.4 of 5 August 1999.

A. Supervisory activities of the Committee on Economic, Social and Cultural Rights, including follow-up on the examination of reports

5. In 2001, the second year during which the Committee was authorized by the Economic and Social Council to hold an extraordinary session, the Committee held three sessions, during which it considered a total of 18 States parties reports and the situation with regard to one non-reporting State party. As of 1 January 2002, the Committee will return to holding two regular sessions per year. Following a change in its working methods, the Committee considers 6 States parties reports per session instead of 5, or 12 reports per year rather than 10.

6. The Committee has been reconsidering its methods of work, including measures for follow-up. In a report submitted to the substantive session of 2001 of the Economic and Social Council (E/2001/L.8), the Committee described its present practice of follow-up as follows:

(a) In all concluding observations, the Committee will request the State party to inform the Committee, in its next periodic report, about steps taken to implement the recommendations in the concluding observations;

(b) Where appropriate, the Committee, in its concluding observations, may make a specific request to a State party to provide more information or statistical data at a time prior to the date that the next periodic report is due to be submitted;

(c) Where appropriate, the Committee may, in its concluding observations, ask the State party to respond, prior to the date that the next report is due to be submitted, to any pressing specific issue identified by the concluding observations;

(d) Any information provided in accordance with (b) and (c) above will be considered by the next meeting of the Committee's pre-sessional working group;

(e) Thereafter, the Committee's Chairperson will inform the State party, in advance of the next session, that the Committee will take up the issue at its next session and that, for that purpose, the participation of a representative of the State party in the work of the Committee would be welcome;

(f) If the information requested in accordance with (b) and (c) is not provided by the specified date, or is patently unsatisfactory, the Chairperson, in consultation with the members of the Bureau, is authorized to follow up the matter with the State party.

7. The Committee has further envisaged, in the aforementioned report to the Economic and Social Council, the following measures in order to enhance its follow-up procedure:

(a) In its revision of reporting guidelines, the Committee will consider emphasizing the importance of addressing in subsequent periodic reports the previous concluding observations of the Committee;

(b) The Committee will closely address the problem of consistent implementation of the follow-up procedure;

(c) To ensure more efficient follow-up to the consideration of reports the Committee requests the Secretariat to strengthen in-house cooperation with the national human rights institutions team and country desk officers;

(d) In order to enhance its follow-up, the Committee will also look into ways of further strengthening its cooperation with the relevant special procedures (such as those pertaining to adequate housing, education, food, violence against women, sale of children, child prostitution and child pornography, and human rights of migrants, and the independent experts on the right to development, extreme poverty and structural adjustment), and with United Nations specialized agencies and programmes, in line with Commission on Human Rights resolution 2001/30.

B. Substantive issues, follow-up on days of general discussion, general comments and statements

8. The Committee on Economic, Social and Cultural Rights has adopted 14 general comments since its first session in 1987. Through its general comments the Committee endeavours to make the experience gained from the examination of States parties' reports available for the benefit of all States parties, in order to assist and promote the further implementation by States parties of the Covenant. At each session, the Committee also devotes one day to general discussion of a particular right or of a particular aspect of the Covenant. The purpose is twofold: to assist the Committee in deepening its understanding of the relevant issues, and to encourage inputs into its work from all interested parties.

9. Since the fifty-seventh session of the Commission, the Committee has not adopted any new general comments. However, considerable attention has been devoted to the follow-up of previous general discussions and the elaboration and adoption of statements regarding several thematic issues of importance.

10. During its twenty-fifth session, the Committee adopted on 4 May 2001 a statement on poverty and the International Covenant on Economic, Social and Cultural Rights, establishing a conceptual link between poverty and economic, social and cultural rights.

11. During its twenty-seventh session, held in November 2001, the Committee focused, inter alia, on the follow-up to its previous general discussion, organized in cooperation with the World Intellectual Property Organization, on article 15 (1) (c) of the Covenant concerning the right of everyone to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he or she is the author. The Committee adopted a statement in which it identified key human rights principles relevant for the discussion on intellectual property and human rights.

12. Also during its twenty-seventh session, the Committee devoted attention to the application of human rights to reproductive and sexual health ("Glen Cove + 5") and the follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in Durban in September 2001. The Committee also adopted a statement for the International Consultative Conference on School Education in Relation with Freedom of Religion and Belief, Tolerance and Non-Discrimination, held in Madrid from 23 to 25 November 2001.

C. Enhancing cooperation with United Nations specialized agencies, programmes and other bodies working on issues that bear upon the Covenant

13. On 7 May 2001, during its twenty-fifth session, the Committee held an international consultation, organized in cooperation with the Haut conseil de la coopération internationale (High Council of International Cooperation) of France, on economic, social and cultural rights in development activities of international institutions. The Committee has been aware of the impact that development activities have on the enjoyment and realization of economic, social and cultural rights. This consultation was held as part of the Committee's efforts to engage United Nations specialized agencies, programmes and funds, and other international and regional organizations in a dialogue and relationship of cooperation.

14. The Committee has been engaged in a dialogue with the United Nations Educational, Scientific and Cultural Organization (UNESCO) on enhancing cooperation. For this purpose, the Chairperson of the Committee met with the UNESCO Committee on Conventions and Recommendations on 21 May 2001 at UNESCO headquarters in Paris. During its twenty-seventh session, the Committee was informed that the UNESCO Executive Board had approved the establishment of a joint expert group of UNESCO and the Committee on Economic, Social and Cultural Rights to monitor the right to education. The decision to establish this expert group has been submitted to the Economic and Social Council for approval.

D. Supporting the work of the Committee on Economic, Social and Cultural Rights

15. The status of implementation of the Programme of Action to strengthen the implementation of the International Covenant on Economic, Social and Cultural Rights has not changed since the previous report (E/CN.4/2001/49).

16. In order to assist States parties in complying with their reporting obligations and other obligations, the Committee members, as well as members of its secretariat, are regularly called upon to be resource persons for training workshops, seminars and expert consultations on reporting under the Covenant, both by the OHCHR and external parties.

II. SPECIAL PROCEDURES OF THE COMMISSION ON HUMAN RIGHTS PERTAINING TO ECONOMIC, SOCIAL AND CULTURAL RIGHTS

A. Independent expert on the question of a draft optional protocol to the International Covenant on Economic, Social and Cultural Rights

17. In its resolution 2001/30 the Commission decided to appoint an independent expert to examine the question of a draft optional protocol to the International Covenant on Economic, Social and Cultural Rights (para. 8 (c)) and to submit a report to the Commission at its fifty-eighth session with a view to its consideration of possible follow-up and future actions, including the establishment of an open-ended working group of the Commission to examine the issue. Accordingly, Hatem Kotrane (Tunisia) was appointed independent expert and undertook two consultative missions to Geneva (20-24 August 2001 and 27 November-7 December 2001). The first mission included consultations within OHCHR, with relevant treaty bodies, the International Labour Organization and other actors interested in the question of a draft optional protocol. During his second mission consultations were undertaken with all member States as well as other actors interested in the issue of the optional protocol. The report of the independent expert can be found in document E/CN.4/2002/57.

B. Other special procedures related to economic, social and cultural rights

18. In addition to the appointment by the Commission of the independent expert, other steps towards the realization by all of economic, social and cultural rights include the establishment of pertinent special procedures, in particular the Special Rapporteur on the right to education (resolutions 1998/33 and 2001/29), the Special Rapporteur on the right to adequate housing (resolution 2000/9), as a component of the right to an adequate standard of living the Special Rapporteur on the right to food (resolution 2000/10) and the independent expert on human rights and extreme poverty (resolutions 1998/25 and 2000/12).

19. At the present session, the Commission will have before it the report of the Special Rapporteur on the right to education, including a report following a visit to the United States of America (E/CN.4/2002/60 and Add.1), and the report of the Special Rapporteur on the right to adequate housing, including a report following a visit to Romania (E/CN.4/2002/59 and Add.1). The report of the Special Rapporteur on the right to food, includes a mission report relating to Niger (E/CN.4/2002/58 and Add.1). The Commission also has before it the report of the independent expert on human rights and extreme poverty, including two reports of missions to Benin and Bolivia (E/CN.4/2002/55 and Add.1 and 2).

IV. STRENGTHENING OF THE RESEARCH AND ANALYTICAL CAPACITIES IN THE FIELD OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS

20. Since the fifty-seventh session of the Commission, several steps have been taken to strengthen the research and analytical capacities of OHCHR and to share expertise, inter alia through the holding of expert meetings and seminars. Efforts to provide or facilitate practical

support aimed at capacity-building through joint projects promoting rights-based approaches in the field of economic, social and cultural rights, including adequate housing, food, reproductive rights and HIV/AIDS and human rights, are illustrated by the examples below.

A. Joint projects to build capacities for rights-based approaches

21. The human rights strengthening (HURIST) project is a joint project of UNDP and OHCHR, initiated in 1999. The project, which currently involves activities in over 30 countries, has among its priorities the development of national human rights plans of action and the promotion of ratification of human rights treaties as a means of integrating human rights into sustainable human development. A mid-term review of the project has recently been undertaken and the project is currently being revised in light of recommendations arising from the review. The revised project will focus on clarifying in practical terms what is meant by mainstreaming, identifying good practices and lessons learned, and understanding how practitioners should integrate human rights in their work. Substantively, the revised project will use as entry points to UNDP's six priority areas, including democratic governance, poverty reduction and HIV/AIDS.

22. Pursuant to Commission on Human Rights resolution 2001/28, OHCHR and the United Nations Centre for Human Settlements (UNCHS) are in the process of developing a joint housing rights programme in order to support efforts by Governments and civil society towards the realization of the right to adequate housing as provided for in international human rights instruments and reaffirmed in the Habitat Agenda. The programme will consolidate and build upon the ongoing work of the two United Nations bodies in the area of housing rights and will, inter alia, strengthen the link with human rights treaty bodies and support the mandate of the Special Rapporteur on the right to adequate housing.

23. OHCHR has an agreement with the Joint United Nations Programme on HIV/AIDS (UNAIDS) the implementation of which is intended to contribute to an effective and sustainable human rights-based response to the HIV/AIDS epidemic at national, regional and international levels. The objectives and activities of this project include the integration of HIV/AIDS issues within the work of the human rights system, including the treaty bodies and special rapporteurs; the implementation of HIV/AIDS-related rights at national level; and global and regional advocacy. A first result of OHCHR's work in this area was the joint publication in 1998, together with UNAIDS, of the International Guidelines on HIV/AIDS and Human Rights, which continue to be an important tool for States in designing, coordinating and implementing practical and effective national HIV/AIDS policies and strategies. In 2002 OHCHR will focus on the development of legal and policy issues, as well as on improving accountability for HIV/AIDS-related human rights.

24. In 1998, UNFPA signed a memorandum of understanding with OHCHR and seconded one staff member to the Office. The implementation of this memorandum has encompassed broad areas of technical assistance and research, training and advocacy in gender and reproductive rights. Ongoing and future collaboration and coordination between UNFPA and the Office will include supporting the work of the human rights treaty bodies in monitoring

reproductive rights; assisting national human rights institutions in integrating reproductive rights in their ongoing activities; strengthening the capacity of UNFPA to address the human rights dimensions of HIV/AIDs; and providing advocacy at all levels on the human rights dimensions of population issues.

25. The United Nations has identified the integration of globally agreed international development targets and cross-sectoral mandates, including human rights, in the Common Country Assessment/United Nations Development Assistance Framework (CCA/UNDAF) as a matter of priority. OHCHR is currently undertaking an Office-wide evaluation to determine how to enhance its operational support to United Nations Country Teams (UNCTs) that are integrating human rights into their joint country analyses, strategies and programming. The evaluation will entail a review of the extent and areas of support provided by the Office to UNCTs, both at headquarters and in the field; the UNCTs' needs for technical and substantive support on human rights issues and the rights-based approaches to development programming; the Office's capacity to respond efficiently to such needs at the field and headquarters levels; and the materials and strategies the Office should develop to support the adoption of a rights-based approach by UNCTs.

26. OHCHR is currently involved in a joint multi-agency training project being developed under the umbrella of the United Nations Development Group (UNDG). Using a module developed within UNDG, a core group of resource persons drawn from different United Nations agencies will be trained at the United Nations Staff College in Turin and then deployed, on request, to train UNCTs on the integration of human rights into country development programming.

B. Expert meetings, workshops and seminars

27. At its fifty-seventh session, the Commission took note with interest of the report of the workshop organized on 5 and 6 February 2001 by OHCHR and the International Commission for Jurists (ICJ) on the justiciability of economic, social and cultural rights (E/CN.4/2001/62/Add.2). Since then, several workshops and expert meetings have been organized at the regional level focusing on the elaboration of strategies for the promotion of economic, social and cultural rights and including on their agendas the question of enforceability and justiciability of such rights.

28. In November 2001, OHCHR, in partnership with the ICJ and the International Bar Association, organized a workshop on the justiciability of economic, social and cultural rights in New Delhi under the plan of action adopted at the eighth Workshop on Regional Cooperation for the Promotion and Protection of Human Rights in the Asia-Pacific Region (Beijing, March 2000) for the implementation of the Tehran Framework for Regional Technical Cooperation. The workshop, which brought together senior judges from the South Asian subregion, provided a forum for the exchange of information and strategies on justiciability of economic, social and cultural rights, with particular emphasis on the right to education, food and health, as well as labour rights. In its conclusions, the Workshop agreed that the issue of justiciability of economic, social and cultural rights is inseparable from the question of enforceability and the existence of adequate remedies. The judiciary was urged to make use of appropriate judicial decisions both in their own jurisdictions and elsewhere.

29. OHCHR organized a regional workshop on the formulation of strategies for the promotion of economic, social and cultural rights in Buenos Aires in October 2001, with participation by senior government officials, policy makers and representatives of national human rights institutions. One of the main topics on the agenda was the enforceability of the International Covenant on Economic, Social and Cultural Rights. In its conclusions, the Workshop emphasized the close relationship between the realization of economic, social and cultural rights and the realization of civil and political rights. It noted that the various categories of rights constitute an indissoluble whole based on recognition of the dignity of the human person, which require permanent protection and promotion with a view to ensuring their full realization. It further called on States to continue considering the preparation of an optional protocol to the International Covenant on Economic, Social and Cultural Rights. It asked States which have not yet done so to incorporate the Covenant in their national constitutions or, failing that, to endow it with the highest possible legal status and to provide channels so that the principles in question can be invoked directly before judges and tribunals.

30. In December 2001, a three-day workshop on economic, social and cultural rights in southern Africa was organized by OHCHR in Botswana. The workshop, whose participants mainly were government representatives, had among its main objectives the sensitization of actors working in the area of economic, social and cultural rights to the relevance of the Covenant and the associated United Nations support system. The workshop also sought to encourage those States which had not yet done so to ratify the Covenant. The impact of HIV/AIDS on the enjoyment of human rights was used as a case study to illustrate the relevance of the provisions of the Covenant, as well as the potential impact that full participation in the reporting system can have on the implementation of economic, social and cultural rights in the region.

31. A workshop also took place in Melbourne, Australia, in October 2001, organized by the Asia-Pacific Forum in collaboration with OHCHR and UNAIDS, on the role of national human rights institutions in the Asian-Pacific region. The workshop focused on HIV/AIDS-related human rights issues, including the right to health, the right to education and information and the right to equality and non-discrimination and how the core functions of national human rights institutions, such as training, the handling of complaints and the promotion of legal reform, can address these issues. The Office will continue to support the work of national human rights institutions in all regions, including through the development, in collaboration with UNAIDS, of a handbook on HIV/AIDS and human rights for national institutions.

32. With regard to the right to food, the mandate given to the High Commissioner for Human Rights at the World Food Summit in 1996 required the Office to clarify the content of the right to food and propose practical measures for implementation. Progress has been made in both areas. The Commission at its fifty-seventh session welcomed the convening of the Third Expert Consultation on the Right to Food in Bonn in March 2001 by OHCHR with the support of the Government of Germany. The Consultation focused on implementation mechanisms at country level. In particular, it explored rights-based policy formulation and programming for food and nutrition security, through national legal instruments and institutions, as well as the justiciability of the right to food and related rights (see E/CN.4/2001/148).

33. In accordance with Commission resolution 2001/25, OHCHR plans to organize a Fourth Expert Consultation in 2002, focusing this time on the realization of the right to food as part of strategies and policies for the eradication of poverty. In 2002 the High Commissioner will seek to define further practical approaches to implementation, facilitating national initiatives to realize the right to food and related rights as a means to integrate human rights into development strategies.

34. In June 2001, UNFPA and OHCHR organized an expert meeting in Geneva on the application of human rights to reproductive and sexual health to assess progress, obstacles and opportunities in integrating health and reproductive rights into the work of the treaty bodies and to elaborate further measures and strategies to this end. The meeting was a follow-up to the meeting held in 1996 in Glen Cove, New York, organized by UNFPA in collaboration with OHCHR and the Division for the Advancement of Women of the Secretariat. The recommendations from the follow-up meeting focused on three main areas, i.e. advocacy, information gathering and the human rights treaty reporting process, and the implementation at the national level of treaty bodies' concluding observations on reproductive and sexual health issues.

35. At its fifty-seventh session, in its decision 2001/103, the Commission on Human Rights authorized the Sub-Commission on the Promotion and Protection of Human Rights to hold a forum on economic, social and cultural rights, to be known as the Social Forum, during its fifty-third session. Accordingly, the Sub-Commission, on 13 August 2001, with the support of the Secretariat, convened a panel meeting of high-level experts and discussants to exchange views on the concept of the Social Forum, with a view to preparing for the holding of a first Social Forum in 2002. The preparatory session included interventions by the High Commissioner for Human Rights, the Special Rapporteur on the right to adequate housing and the special representative of the Secretary-General on human rights defenders, as well as by experts and discussants from the United Nations Conference on Trade and Development (UNCTAD), the World Trade Organization (WTO), the World Bank, the ILO, the Geneva Graduate Institute of International Studies and the non-governmental organization Oxfam. Sub-Commission resolution 2001/24, adopted following the holding of the preparatory panel meeting, is before the Commission on Human Rights for consideration.

V. CONCLUSIONS

36. The appointment by the Commission on Human Rights of special rapporteurs and experts on education, housing, food and extreme poverty, as well as the independent expert to examine the question of a draft optional protocol to the International Covenant on Economic, Social and Cultural Rights, are welcome efforts towards the realization by all persons in all countries of economic, social and cultural rights. Numerous activities have been undertaken by the Committee on Economic, Social and Cultural Rights and the Office of the High Commissioner for Human Rights aimed at enhancing cooperation between United Nations agencies and the Committee, as well as at training, awareness-raising and the advocacy of a rights-based approach to development, which contribute to the realization of economic, social and cultural rights.

37. Although important progress has taken place, much remains to be done both in terms of clarifying the precise legal content of economic, social and cultural rights, as well as with regard to their operational realization. At the conceptual level, the precise identification of the impact on the realization of economic, social and cultural rights of problems defined at the macro level, such as poverty, environmental degradation and globalization, remains a challenge. At the operational level, practical approaches need to be developed for the implementation of specific economic, social and cultural rights and integrated into national development strategies.